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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,994	12/15/2004	Uwe Beer	ZAHEFI P701US	7265
20210 7590 06/03/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
FIELDS, DOROND				
ART UNIT		PAPER NUMBER		
3623				
MAIL DATE		DELIVERY MODE		
06/03/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,994

Applicant(s)

BEER ET AL.

Examiner

DORON D. FIELDS

Art Unit

3623

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6, 8, 10 and 13 is/are rejected.
- 7) ☒ Claim(s) 6-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☒ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Status of Claims

1. This Final office action is in reply to the response and amendment filed on 14 March 2008.
2. Claims 6-8 have been amended.
3. Claims 9-14 have been added.
4. Claims 1-5 have been canceled.
5. Claims 6-14 are currently pending and have been examined.

Claim Objections

6. Claims 6-14 are objected to because of the following informalities:
 - Claims 6, 9, and 12 – Readability; claimed elements are not clearly specified/identified/indented. For example, the last paragraph of claim 6 claims the device (arm), rod, lever, spring, and cylinder and the third paragraph of claim 9 ("at least one arm ... engaging with a rod") claims two elements - the arm and the rod. Examiner suggests that Applicant rewrite the claim according to 37 CFR 1.75 (i);
 - Claims 9 and 12 – Repeated word ("the"); the claims recite "a spring (18) biases ... such that the the contoured edge ..."
 - Claim 8 – Superfluous word ("a"); the claim recites "wherein a deepest notch ... is a neutral a non-actuated position ..."
 - Claims 7, 10, 11, 13, and 14 – Dependency; objected as they depend on the above independent claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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8. Claim 6 recites: "the device (4) has a rod (6) ..." As written, the claim implies that the rod is part of the device. Claim 6 is inconsistent with the specification, the drawings and claims 9 and 12 that refer to item 4 as roller arms. For the purpose of examination, the examiner assumes that item (4) refers to the roller arms as shown in Figures 1 and 2 and that the rod (6) is a separate element.
9. Claims 10 and 13 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
10. Dependent claims 10 and 13 recite "wherein the cylinder (8) and an annular groove formed therein ..." Independent Claims 9 and 12 already recite "a cylinder having a groove". Is the groove of claims 10 and 13 that of claims 9 and 12? Does the cylinder contain a second groove?
11. Claims 10 and 13 recite "The shifting assembly according to claim 9/12, wherein the cylinder (8) and an annular groove (10) formed therein which rolls along the contoured edge (20) of the lever (16) engages.", yet claims 9 and 12 recite "a spring (18) biases the contoured edge of the lever ... such that the contoured edge (20) engages with the cylinder (8) and, as the shifting shaft (2) rotates, the groove (10) of the cylinder (8) rolls along the contoured edge (20)". Examiner fails to understand the subject matter claimed in claims 10 and 13 and how it differs from that which is claimed in claims 9 and 12.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 6 and 8 rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al. (DE 100 16 364 A1)

Claim 6:

Muller, as shown, discloses the following limitations:

A shifting assembly for a multiple gear variable speed motor vehicle transmission having:

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- *one of a central selector or a shifting shaft (2) (see at least Fig 6A shaft 22) mounted in a transmission housing (12) such that the central selector or the shifting shaft (2) is axially rotated and displaced (see at least Fig 1, Fig 3, and Fig 6A), by rotating the selector or the shifting shaft (2), a coupling to be actuated, in a shift gate can be selected, and by subsequently axially displacing the selector or the shifting shaft (2), gear ratios are selected, and*
- *a device (4) (see at least Fig 6A, arm 26) is provided on one of the selector or the shifting shaft (2) or on an auxiliary shaft (28) that is controlled by the selector or the shifting shaft (2) the device (4) has a rod (6) (see at least Fig 6D, rod 46), which is, mechanically linked with a lever (16) (see at least Fig 6A, lever 84) mounted in the transmission housing (12) such that the lever (16) can swivel, a contoured edge (20) of the contoured lever (16) mirrors selection patterns and is spring loaded against the rod (6) by a spring element (18) (see at least Fig 6A, spring 66), a rotatable cylinder (8) (see at least Fig 6D, cylinder 70) being provided on the rod (6), the spring (18) biases the lever (16) toward both the cylinder (8) and the shifting shaft (2) (see at least Fig 6A), the rotatable cylinder operates in conjunction with the contoured edge (20) of the lever (16) (see at least Fig 6A), and the cylinder (8) is capable of being displaced axially on the rod (6).*

Claim 8:

Muller discloses all the limitations of claim 6 as shown above. Furthermore, Muller, as shown, discloses the following limitations:

- *wherein a deepest notch (22) of the contoured edge (20) is a neutral a non-actuated position for the shifting lever in a selection gate (see at least Fig 6A)*

Allowable Subject Matter

14. Claims 9, 11, 12, 14 are allowable.
15. Claim 7 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
16. Claims 10 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

17. Applicant's arguments with respect to claims 6-8 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

18. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Doron Fields** whose telephone number is **571.270.3107**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **BETH VAN DOREN** can be reached at **571.272.6737**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to **571-273-8300**.

Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building
401 Dulany Street
Alexandria, VA 22314.

/Doron D Fields/ Examiner, Art Unit 3623
20 May 2008

/Richard WL Ridley/

Supervisory Patent Examiner, Art Unit 3682